

AIR WAR COLLEGE

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REEVALUATING THE CONTEXT OF U.S. STRATEGY IN THE  
SOUTH CHINA SEA

by

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## **Biography**

Mr. Christopher C. Collins is assigned to the Air War College, Air University, Maxwell AFB, AL. Mr. Collins is a Defense Acquisition Professional and is currently assigned to the Aegis Ballistic Missile Defense (BMD) Program as part of the Missile Defense Agency. In this assignment, Mr. Collins has held various acquisition billets including Command and Control, Communications, Computers and Information Branch Head, Aegis BMD Baseline 4.0.1 Development Manager, Aegis BMD Systems Engineer, and Aegis BMD Test and Evaluation Technical Director. Mr. Collins is also retired from the U.S. Navy, having started his career with commissioning from the U.S. Naval Academy in 1984 and completion of flight training. Mr. Collins flew helicopters and retired at the rank of CAPT after 30 years of service, both on Active Duty and in the Reserves. Mr. Collins is currently a member of the 2016 Cohort of the Defense Senior Leader Development Program, and is enrolled as a student at the Air War College.

## **Abstract**

Ongoing Chinese actions within the South China Sea region continue to remain a primary focus for US foreign policy initiatives and efforts within the Asia-Pacific region. The United States has undertaken three specific initiatives in response to these actions, to include conduct of activities in the South China Sea under the Freedom of Navigation program, significant expansion of regional security cooperation agreements with allies and partners, and coordination with the Chinese military to minimize unplanned incidents at sea. However, these initiatives have been executed within a distinct military context and have predictably enabled the Chinese perspective that these efforts are a component of a larger strategy of “containment” that are intended to restrict China’s natural evolution as a regional power. The challenge for the United States is to recognize that China’s actions in the South China Sea are intertwined within a larger context of Chinese national security, and that this understanding of that context is critical for the United States to minimize both perceived and actual ambiguity over its own initiatives as well as to avoid unintentional escalation of events that would jeopardize US efforts to adhere to its strict “neutrality” position vis-à-vis sovereignty claims to ensuring stability in the region.

## Introduction

*The United States has enduring economic and security interests in the Asia-Pacific region. And because the region – stretching from the Indian Ocean, through the South and East China Seas, and out to the Pacific Ocean – is primarily water, we place a premium on maintaining maritime peace and security.*

*The Asia-Pacific Maritime Security Strategy, 2015*<sup>1</sup>

*A number of challenges has [sic] emerged over the past year that place stability and security at risk. In July 2015, China largely completed land reclamation at seven sites in the South China Sea and is finishing runways, infrastructure, and systems to militarize what are, in effect, man-made bases, significantly raising regional tensions. China views the South China Sea as a strategic frontline in their quest to dominate East Asia out to the Second Island Chain.*

Admiral Harris, Commander, U.S. Pacific Command, PACOM Posture Hearing, 2016<sup>2</sup>

*China has not clarified its maritime claims associated with the dashed-line maps in a manner consistent with international law. China's laws, declarations, official acts, and official statements present conflicting evidence regarding the nature and scope of China's claims.*

US Department of State, *Maritime Claims in the South China Sea*, 2014.<sup>3</sup>

Within the last decade, the Asia-Pacific region has moved to the forefront of US foreign policy efforts, culminating in the significant announcement in 2011 by the Obama administration of a US pivot<sup>4</sup> to Asia.<sup>5</sup> As highlighted by the references above, there are economic, military

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1. Department of Defense, *The Asia-Pacific Maritime Security Strategy*, 1.

2. ADM Harris, February 2016 Statement to the SASC, 2.

3. Department of State, *Limits in the Seas, No. 143, China: Maritime Claims in the South China Sea*, 23.

4. Panda, "Straight From the US State Department: The 'Pivot' to Asia Is Over." With the new US administration, Ms. Susan Thornton, the Assistant Secretary of State for East Asian and Pacific Affairs, acknowledged that the context and use of the terms "rebalance" and "pivot" is expected to change.

5. Ross and Bekkevold, *China in the Era of Xi Jinping*, 221. See also Simon, *The US Rebalance and Southeast Asia*, that provides a historical regional perspective on the US rebalance. ADM Harris, February 2016 Statement to the SASC, 1, provides the following context on the rebalance, "In August of 2015, Secretary of Defense Carter described four elements of the military component of the Asia-Pacific Rebalance: 1) investing in future capabilities

and international considerations that continue to provide challenges for the United States in its relations not only with China but also with US allies and partners in that region. Within the region, the adjudication of competing sovereignty (aka territorial) and maritime claims within the South China Sea (SCS) and East China Sea remains unresolved and this provides a potentially unstable environment for interaction between the US and China, as well as with the other regional countries including our allies and partners.

With a focus on the SCS specifically, these issues reflect a microcosm within the larger context of China's potential rise as a regional hegemon and the resulting implications to current international order and the primacy role the United States has enjoyed since the late 20<sup>th</sup> century with the conclusion of the Cold War.<sup>6</sup> US actions and response to China's behavior in the SCS will continue to have an impact in shaping the broader engagement with China and the other regional countries, and will have significant implications on maintained stability in that region. In support of the US position of "neutrality"<sup>7</sup> vis-à-vis the various maritime claims in the region, additional transparency and understanding of Chinese intentions would minimize friction and avoid potential miscalculation.<sup>8</sup>

There is an important balance the United States is trying to achieve by reassuring friends and allies of the US commitment to a regional security order without exacerbating China's

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relevant to the challenges in the Asia-Pacific; 2) fielding the right numbers of existing capabilities to the Asia-Pacific; 3) adapting our regional force posture; and 4) reinforcing alliances and partnerships." Of note is that US efforts in the Asia-Pacific region, particularly on economic issues, started as early as 1993 when President Clinton hosted the Asia-Pacific Economic Cooperation (APEC) Forum where they outlined APEC's vision. See APEC Home Page, <http://www.apec.org/About-Us/About-APEC/History.aspx>.

6. Dueck, *Reluctant Crusaders*, 114.

7. Fravel, *U.S. Policy Towards the Disputes in the South China Sea Since 1995*, 1. The US position has been to maintain neutrality on the competing claims within the SCS. However, there are challenges for the United States as it increases its involvement in the region and the perceived effects of that interaction in either supporting or violating the proclaimed neutrality. From the US and international perspective, the basis for resolution for competing maritime claims has been the United Nations Convention on the Law of the Sea (UNCLOS), and this will be discussed in detail in subsequent sections.

8. Cordesman and Colley, *Chinese Strategy and Military Modernization in 2015*, 506.

concerns and anxieties about perceived US hedging and “containment”<sup>9</sup> of a rising China.<sup>10</sup>

Within this balance, the United States needs to be sensitive to “exaggerating” events in the SCS as it works within the region to maintain stability and an accepted international order.<sup>11</sup> The United States should also continue to evaluate Chinese actions in the SCS within the framework of internal challenges being managed by China’s leadership. These challenges include maintaining domestic stability, maintaining sufficient economic growth, and addressing a resurgence in nationalistic rhetoric that includes addressing regional challenges to China’s interests.<sup>12</sup>

Within these broader considerations and in response to specific challenges within the SCS, the United States has initiated three major and visible initiatives as components of a larger engagement framework to maintain stability in the region.<sup>13</sup> These initiatives include renewed emphasis of activities in the SCS under the Freedom of Navigation (FoN) program,<sup>14</sup> significant expansion of regional security cooperation agreements with allies and partners,<sup>15</sup> and coordination with the Chinese military to minimize unplanned incidents at sea.

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9. It is important to note the distinction in how the Chinese are viewing “containment” which is primarily driven by a physical context to geography influenced by US allies and partners and their capabilities – a “balance of power” perspective. From the US perspective, efforts are just the opposite given the US desire to have China assume a role as a responsible member of the international order. US efforts do not discourage China from interaction with friends, allies, and partners, and do promote China’s engagement and integration within the international order via multiple forums. But as this paper will discuss, the visible military context of key US actions specific to the SCS unfortunately reinforce the Chinese perception of “containment.”

10. Kim, “Possible Future of the Contest in the South China Sea,” 51.

11. Bader, Lieberthal, and McDevitt, *Keeping the South China Sea in Perspective*, 3.

12. Department of Defense, *Military and Security Developments Involving the People’s Republic of China 2016*, 46.

13. Department of Defense, *The Asia-Pacific Maritime Security Strategy*, 19-20. DoD lines of effort have included the following: (1) strengthen military capacity to deter conflict and coercion and to respond decisively; (2) work with allies and partners to build maritime capacity; (3) leverage military diplomacy to build greater transparency, reduce risk of miscalculation or conflict, and promote shared rules-of-the-road; and (4) strengthen regional security institutions and encourage development of an open and effective regional security architecture. Also see Simon, *The US Rebalance and Southeast Asia*, 575-577. While the rebalance includes a broader approach, US military capabilities are viewed as the centerpiece of the US initiatives in the Asia-Pacific region.

14. Ibid., 24.

15. Ibid., 26.

Recommendations for the United States to maintain execution of all of these initiatives have remained consistent within recent literature on US strategies for the SCS. In executing these initiatives, however, the United States needs to recognize that its ongoing, visible efforts in the SCS region have a distinct military flavor, which have, predictably, initiated antagonistic and anticipated responses from the Chinese government as well as the Chinese people. This is not to argue that the United States needs to defer legitimate internationally-recognized responses to ongoing efforts by all countries to work inside established norms in resolving the disputes, but the United States should appropriately consider China's history on dispute resolution, their demonstrated efforts from a foreign policy perspective to work within non-military means, and acknowledge that China is addressing larger issues within the context of its overall national security strategy, of which resolution of issues within the SCS are only a part.

This paper argues that a broader US understanding and consideration of the Chinese perspective and their subsequent reactions to US actions vis-à-vis ongoing events in the SCS is critical for the United States to minimize potential escalatory actions and effectively execute the US strategy of "proclaimed neutrality" regarding claimant territorial claims in that region. These considerations include the following: Chinese perceptions and concerns with ongoing US led and executed FoN operations, sustained Chinese efforts to work with the Association of Southeast Asian Nations (ASEAN) to develop regional solutions to the issues, Chinese history in respect to territorial dispute settlement, and Chinese perceptions of US security cooperation efforts with regional ASEAN countries. Overall US efforts should focus on providing appropriate and necessary clarity on US intentions; thereby negating potential global misperception of US actions and placing the global spotlight on China with respect to their actions in the SCS and any resulting escalation of tensions or even conflict.



This paper is organized in four major sections: (1) an overview of the SCS and associated competing claims, including the international context of the United Nations Convention on the Law of the Sea (UNCLOS) and Chinese interpretation and application differences; (2) a review of current US initiatives and supporting objectives within the SCS region; (3) a review of China's overall strategies and initiatives within the SCS, including responses to US initiatives; and (4) recommendations for the United States in future SCS initiatives and engagements. First, a summary review of the SCS and the associated history is important to establish an appropriate context to evaluate US and Chinese actions.

## **South China Sea and UNCLOS**

### **Chinese Claims in the South China Sea**

Starting in 1947, Chinese maps (see Figure 1, Appendix A) of the SCS region started including a “dash” depiction<sup>16</sup> that encompassed approximately 80% of the SCS region.<sup>17</sup> This depiction has now evolved to become the Nine Dash Line (9DL) (see Figure 2, Appendix A), and was originally thought to just be a cartographical depiction of land claims. However, in recent years, China's actions have become more complex with their expanded claim of “historic rights” including economic resources in addition to any land feature claims.<sup>18</sup> Within this region there are three major groups of features,<sup>19</sup> including land features and low tide elevations: (1) the Paracel Islands (referred to by China as Xisha Qundao), (2) the Spratly Islands (Nansha

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16. Department of State, *Limits in the Seas, No. 143, China: Maritime Claims in the South China Sea*, 2-7. The original map in 1947 had 11 dashed lines, but has evolved over the years to the current version of nine dashed lines.

17. McDevitt, *A CNA Occasional Paper; The South China Sea*, 3.

18. Ibid.

19. Ibid., 2. The maritime features in the South China Sea include approximately 180 named islands, rocks, shoals, sandbanks, reefs and cays, plus unnamed shoals and submerged features distributed among four geographically different areas of that sea.

Qundao), and (3) Scarborough Reef (Huangyan Dao).<sup>20</sup> These land features have had competing claims by the various regional countries,<sup>21</sup> and since the 1970's there have been a number of engagements between China and these regional countries vis-à-vis these respective competing claims.<sup>22</sup> In addition, China has established artificial islands<sup>23</sup> within the Spratly and Paracel Islands,<sup>24</sup> with aggressive near-term efforts within the Spratly islands including installation of self-defense systems on those artificial islands.<sup>25</sup> Of critical importance is that resolution of these claims, and applicability of maritime zones under UNCLOS,<sup>26</sup> has impact on the Exclusive Economic Zones (EEZ)<sup>27</sup> for all of the regional countries bordering the SCS. Attempted resolution of some of these competing claims came in 2013<sup>28</sup> when the Republic of the Philippines submitted a petition to the Arbitral Tribunal<sup>29</sup> for rulings concerning four issues related to the SCS.<sup>30</sup> The Tribunal released its final decision on the merits of the case in July

20. Department of State, *Limits in the Seas, No. 143, China: Maritime Claims in the South China Sea*, 4.

21. McDevitt, *A CNA Occasional Paper; The South China Sea*, 2-3, 48-61. This report provides comprehensive details on the various competing claims within the SCS.

22. Bader, Lieberthal, and McDevitt, *Keeping the South China Sea in Perspective*, 4-5. See also Fravel, *U.S. Policy Towards the Disputes in the South China Sea Since 1995*, 3-7 for additional context of US actions vis-à-vis SCS engagements between China and the various regional countries.

23. *The Asia-Pacific Maritime Security Strategy*, 16. Of interest is that all the territorial claimants except Brunei maintain outposts in the SCS, allowing them to establish presence, assert claims of sovereignty, and monitor activities. All claimants have engaged in island-reconstruction activities, but certainly not to the degree of recent Chinese efforts.

24. Department of Defense, *Military and Security Developments Involving the People's Republic of China 2016*, 31.

25. Brunnstrom, "China installs weapons systems on artificial islands."

26. McDevitt, *A CNA Occasional Paper; The South China Sea*, 11-12, 44. It is important to note that the United States has not formally ratified UNCLOS; however, the United States has consistently acted consistent with UNCLOS provisions since 1982 and has declared that most of the treaty reflects customary international law. Of note with UNCLOS is that it does not have provisions for resolving sovereignty of offshore islands.

27. *United Nations Convention on the Law of the Sea*, 43-53.  
[http://www.un.org/Depts/los/convention\\_agreements/texts/unclos/closindx.htm](http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm). Part V, Articles 55-75, provide amplifying information on the context of Exclusive Economic Zones.

28. McDevitt, *A CNA Occasional Paper; The South China Sea*, 12.

29. Permanent Court of Arbitration, *The South China Sea Arbitration*, 3. <http://www.andrewerickson.com/wp-content/uploads/2016/07/PH-CN-20160712-Press-Release-No-11-English.pdf>. The Tribunal, hosted by the Permanent Court of Arbitration (PCA), was constituted under Annex VII of the UNCLOS Convention. The PCA is an intergovernmental organization established by the 1899 Hague Convention on the Pacific Settlement of International Disputes.

30. *Ibid.*, 4. First, the Philippines sought a ruling on the source of the Parties' rights and obligations in the South China Sea and the effect of the United Nations Convention on the Law of the Sea ("Convention") on China's

2016 and provided two major findings, among others: (1) that there was no legal basis for China to claim historic rights with the 9DL; and (2) that none of the features in the Spratly Islands were capable of generating an EEZ consistent with UNCLOS.<sup>31</sup> The Chinese publicly released their response to the PCA ruling, and stated that they will not abide by the findings and will continue to promote resolution of these issues via bilateral negotiations with the various claimants.<sup>32</sup> From China's perspective, these disputes are really territorial disputes that are not subject to UNCLOS and its context of maritime zones based on the validity of territorial features.<sup>33</sup> This interpretation difference has been at the core of misunderstanding between the United States, including the international community, and China; that is, the interpretation of validity of China's territorial claims and the subsequent applicability of UNCLOS for maritime zones based on those territorial claims. This has placed the United States in a precarious position, as it balances its stated claim of "neutrality" vis-à-vis territorial claims against the need to interpret and enforce UNCLOS requirements as they relate to those potential maritime claims.

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claims to historic rights within its so-called 'nine-dash line'. Second, the Philippines sought a ruling on whether certain maritime features claimed by both China and the Philippines are properly characterized as islands, rocks, low-tide elevations or submerged banks under the Convention. The status of these features under the Convention determines the maritime zones they are capable of generating. Third, the Philippines sought rulings on whether certain Chinese actions in the South China Sea have violated the Convention, by interfering with the exercise of the Philippines' sovereign rights and freedoms under the Convention or through construction and fishing activities that have harmed the marine environment. Finally, the Philippines sought a ruling that certain actions taken by China, in particular its large-scale land reclamation and construction of artificial islands in the Spratly Islands since this arbitration was commenced, have unlawfully aggravated and extended the Parties' dispute.

31. Ibid., 2.

32. Chinese response to the Permanent Court of Arbitration ruling, Paragraphs 83, 116, and 130.

33. Chen, "China envoy blasts Hague ruling." This position was reinforced by the Shanghai Institute of International Studies during the Air War College delegation visit on 09 March, 2017. For background, the author was a student member of the Air War College Academic Year 2017 Regional Cultural Studies trip to China, which was the culmination of a focused study on China including the impact of PMEC (political, military, economic, and cultural) factors in influencing US/China national security relations. The itinerary of the trip included meetings and events that provided comprehensive coverage of all PMEC factors.

## Interpretations and Applicability of UNCLOS

The US interpretation of UNCLOS applicability has been a critical component of ongoing SCS interaction. There are four primary articles within UNCLOS that define the meaning and rights of *Innocent Passage in Territorial Seas*, *Exclusive Economic Zones*, and *Freedom of the High Seas*. These three zones and the associated internationally recognized acceptable actions are relevant for any country that borders an international body of water,<sup>34</sup> and provide the necessary legal context for US actions within the SCS. In December 2014, the Department of State published a report that assessed Chinese claims to the SCS. The conclusion stated:

*China has not clarified its maritime claims associated with the dashed-line maps in a manner consistent with international law. China's laws, declarations, official acts, and official statements present conflicting evidence regarding the nature and scope of China's claims. The available evidence suggests at least three different interpretations that China might intend, including that the dashes are (1) lines within which China claims sovereignty over the islands, along with the maritime zones those islands would generate under the LOS Convention; (2) national boundary lines; or (3) the limits of so-called historic maritime claims of varying types [...]. For these reasons, unless China clarifies that the dashed-line claim reflects only a claim to islands within that line and any maritime zones that are generated from those land features in accordance with the international law of the sea, as reflected in the LOS Convention, its dashed-line claim does not accord with the international law of the sea.*<sup>35</sup>

As discussed earlier, the PCA ruling in July 2016 provided additional clarification on what features within the Spratly islands could generate an EEZ as well as a legal basis for the 9DL. Given this context, the US position has been premised on the principle of “neutrality” as to

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34. *United Nations Convention on the Law of the Sea*, 26-27, 40, 53. For clarity, these articles are not the only articles covering the critical concepts of Innocent Passage, Exclusive Economic Zones, and Freedom of the High Seas, but they are the primary articles.

35. Department of State, *Limits in the Seas, No. 143, China: Maritime Claims in the South China Sea*, 23-24.

territorial claims; that is, the United States does not take a position on the various claims to features in the SCS.<sup>36</sup> However, this position of territorial “neutrality” and the supporting FoN operations has been viewed by China as a defacto advocacy position against China’s claims in the region.<sup>37</sup> Complicating this are three additional interpretations of UNCLOS by China that are inconsistent with broader international interpretation: (1) prohibition of military activities in an EEZ without prior notification, (2) prior notification required by warships to exercise innocent passage, and (3) unsupported establishment of straight baselines around mid-ocean archipelagos.<sup>38</sup> In response to these respective positions vis-à-vis the SCS, the United States has developed a strategy that is comprised of three major components: (1) FoN operations; (2) maritime security agreements with regional countries; and (3) closer coordination with the Chinese to minimize unplanned incidents.

### **US Initiatives within the SCS Region**

The US strategy in the SCS region has been one focusing on “process and principles” associated with the eventual resolution of the various claims in the SCS region, consistent with the need to remain “neutral” vis-à-vis any particular territorial claim.<sup>39</sup> The basis of these processes and principles has been international law, primarily through UNCLOS. As stated previously, the US challenge has been to maintain this territorial neutrality while staying actively engaged in efforts to manage tensions within the region and ensuring that maritime claims comply with international law. From an international perspective, both the United States and

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36. Fravel, *U.S. Policy Towards the Disputes in the South China Sea Since 1995*, 1.

37. Xue and Xu, “How the US Misjudged the South China Sea, Part I.” See also Kuok, *The U.S. FON Program in the South China Sea*, 19-20. By not recognizing territorial sea limits associated with low tide elevation features, the Chinese attribute US FoN actions as disregarding their legitimate territorial claims that would warrant territorial sea limits under UNCLOS.

38. Kuok, *The U.S. FON Program in the South China Sea*, 11-13.

39. Fravel, *U.S. Policy Towards the Disputes in the South China Sea Since 1995*, 2. By adhering to the neutrality principle, the United States has sought to increase its involvement without defending any of the outstanding claims.

China have common interests in seeking stability and open sea lanes within the SCS, given their interdependence on economic and strategic issues.<sup>40</sup> Nevertheless, from the US perspective, China still needs to prove that her intentions are peaceful within the region, and that efforts to achieve her interests align and are congruent with interests of the other regional countries.<sup>41</sup>

Given this framework, there is a strong advocacy within the United States to view the ongoing SCS issues through a broader and less confrontational lens.<sup>42</sup> The United States should more proactively embrace the changing regional and global dynamics associated with China's rise as a power, and the United States should also recognize that China may legitimately have a sphere of influence in the Asia-Pacific region warranting a more constructive vision of great power relations.<sup>43</sup> Included in this approach would be a more nuanced strategy that would focus on understanding Chinese leadership intentions and responses, rather than a straight forward approach of "engagement and containment,"<sup>44</sup> and well as ensure incidents within the region are not exaggerated and are understood in a broader context.<sup>45</sup> That said, this "nuanced strategy" advocacy has generally been overshadowed by a "balance of power" advocacy that envisions less subtle mechanisms to demonstrate US resolve in defusing tensions and maintaining US interests.<sup>46</sup> Recommendations from various organizations and sources have consistently stressed maintaining increased US involvement in the region. Two major efforts associated with demonstrating US resolve include: (1) conduct of FoN operations; and (2) expansion of regional

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40. Kim, "Possible Future of the Contest in the South China Sea," 51.

41. Ibid.

42. Bader, Lieberthal, and McDevitt, *Keeping the South China Sea in Perspective*, 9. The challenge for the US is to strike an appropriate balance between competing interests: diminishing momentum towards heightened tensions, protect US maritime interests, provide confidence to regional actors on US security presence, and avoid risking US credibility in any potential military-to-military confrontations.

43. Kim, "Possible Future of the Contest in the South China Sea," 56.

44. Eisenman, "Rethinking U.S. Strategy Towards China."

45. Bader, Lieberthal, and McDevitt, *Keeping the South China Sea in Perspective*, 3, and Brooks and Wohlforth, "The Once and Future Superpower. Why China Won't Overtake the United States," 102.

46. Eisenman, "Rethinking U.S. Strategy Towards China."



maritime security agreements.<sup>47</sup> A third major effort generated as a natural consequence of the first two efforts was establishment of coordinated efforts with the Chinese military to minimize and mitigate unplanned encounters at sea and in the air.

## **Freedom of Navigation Operations**

The objective of US FoN operations,<sup>48</sup> an effort managed concurrently by the Department of State and the Department of Defense, is to have maritime states recognize and respect legal rights, and to discourage their efforts to make excessive maritime claims.<sup>49</sup> In general the United States has used FoN operations to respond to three types of excessive maritime claims: (1) insistence on prior authorization or notification for warships to exercise innocent passage; (2) prohibition of military activities within an EEZ; and (3) drawing of straight baselines when geographic boundaries are not satisfied.<sup>50</sup> Annual US FoN operations conducted globally are published by the Department of Defense.<sup>51</sup> Within the SCS specifically, the US reinvigorated FoN operations in October 2015, and has subsequently conducted FoN operations in January 2016, May 2016, and October 2016.<sup>52</sup> These FoN operations have been viewed as provocative by China, and their response will be discussed in the next section. One area that contributes to the perception of the recent FoN operations as provocative is that the United States

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47. For references on various recommendations, see McDevitt, *A CNA Occasional Paper; The South China Sea*; Blackwill and Tellis, *Revising U.S. Grand Strategy Toward China*; Glaser, "Conflict in the South China Sea;" and Bader, Lieberthal, and McDevitt, *Keeping the South China Sea in Perspective*.

48. Kuok, *The U.S. FON Program in the South China Sea*, 2. FoN operations include both maritime and air components that support a broad array of overflight and maritime rights.

49. Ibid., 5.

50. Ibid., 13. See also Department of Defense, Secretary of Defense Letter to the Honorable Senator McCain regarding Freedom of Navigation Operations.

51. Department of Defense, Freedom of Navigation Report for FY2015.

52. Kuok, *The U.S. FON Program in the South China Sea*, 1; and Ali and Spetalnick, "U.S. warship challenges China's claims in South China Sea." The October 2015 FoN operation was the first time within the past three years that the United States had sailed within 12 nautical miles of a contested feature in the SCS.

has executed these operations with significant external media publicity, which is a departure from traditional FoN operations.<sup>53</sup> Publicized operations provide China with the opportunity to respond accordingly by asserting sovereignty claims, as well as by asserting their interpretation of UNCLOS and applicability to the SCS region. Complicating this publicity is the perception of aggressive language; a Pentagon spokesperson stated that the May 2016 FoN operation was to “challenge *excessive* (author’s emphasis) maritime claims by China, Taiwan, and Vietnam which were seeking to *restrict* (author’s emphasis) navigation rights in the South China Sea. This operation challenged attempts by China, Taiwan, and Vietnam to *restrict* (author’s emphasis) navigation rights around the features they claim.”<sup>54</sup> There are also critics that challenge the United States to demonstrate that FoN operations provide a vehicle to support strategic communications rather than an end in itself.<sup>55</sup> Lastly, another challenge with ongoing FoN operations is that they generally respond to excessive maritime claims established by existing territorial claims. In the SCS, FoN operations are responding to “potential” excessive territorial claims.<sup>56</sup> The perception thus created is one that may inadvertently provide “defacto” acknowledgment to any given country’s claim.

## Security Cooperation Agreements

To complement FoN operations, the United States has expanded maritime security cooperation with regional countries. Maritime security cooperation supports engagement with these countries and provides assurances associated with their respective security. In 2014, the

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53. Ku, Fravel, and Cook, “Freedom of Navigation Operations in the South China Sea Aren’t Enough.”

54. LaGrone, “U.S. Destroyer Passes Near Chinese Artificial Island in South China Sea Freedom of Navigation Operation.”

55. Erikson, “New U.S. Security Strategy Doesn’t Go Far Enough on South China Sea.”

56. Kuok, *The U.S. FON Program in the South China Sea*, 19.



United States and the Republic of the Philippines concluded the Enhanced Defense Cooperation Agreement that reaffirmed their formal alliance addressing international and regional security cooperation efforts.<sup>57</sup> An important note about the EDCA is that it does not commit the United States to take sides on any sovereignty disputes in the region.<sup>58</sup> Also critical in supporting maritime security cooperation efforts is the Maritime Security Initiative (MSI),<sup>59</sup> an initiative announced by the Secretary of Defense at the May 2015 Shangri-La Conference.<sup>60</sup> The MSI is focused on key regional countries including the Philippines, Vietnam, Malaysia, Indonesia, and Thailand; and provides three overarching objectives: (1) provide countries with improved situational awareness within their respective sovereign territories; (2) share information with domestic, joint, and international combined forces; and (3) contribute to regional peace and stability operations.<sup>61</sup> Integral to this effort is the future transfer of patrol boats, of which the Philippines have already received two Excess Defense Article US Coast Guard cutters,<sup>62</sup> and a potential acquisition of additional patrol boats from Japan.<sup>63</sup> The Asia-Pacific Maritime Security Strategy from August 2015 provides a concise summary of all those initiatives.<sup>64</sup> To complement maritime security initiatives, there is an annual naval exercise called Cooperation Afloat Readiness and Training (CARAT) that supports bilateral training with regional naval

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57. Agreement Between the Government of the Republic of the Philippines and the Government of the United States of America on Enhanced Defense Cooperation, 10. This reference provides the entire EDCA agreement.

58. McDevitt, *A CNA Occasional Paper; The South China Sea*, 28.

59. ADM Harris, February 2016 Statement to the SASC, 16-17. Complementing MSI is Foreign Military Financing (FMF), which is designed to provide major end items to eligible regional countries.

60. Department of Defense, *The Asia-Pacific Maritime Security Strategy*, 26.

61. ADM Harris, February 2016 Statement to the SASC, 10-11.

62. Ibid., 12.

63. Simon, *The US Rebalance and Southeast Asia*, 584. While not part of MSI, it highlights an active effort by the Philippines to bolster their maritime capacity.

64. O'Rourke, *Maritime Territorial and Exclusive Economic Zone (EEX) Disputes Involving China*, 39.

forces.<sup>65</sup> In addition, there have been other discussions between regional countries on bilateral coordination, most visibly between Vietnam and the Philippines for conduct of joint patrols.<sup>66</sup>

### **Cooperation Efforts between the United States and China<sup>67</sup>**

While FoN operations as well as security cooperation agreements were initiated to demonstrate US resolve, a corresponding second order effect included a clear need to establish ground rules and reporting mechanisms for potential incidents between US and Chinese forces during FoN operations or other naval and air activities in the SCS.<sup>68</sup> Initially the Code for Unplanned Encounters at Sea (CUES) was developed, but this agreement had some critical shortcomings. It was a non-binding agreement primarily focused on communications, not behavior; it did not apply to fishing/constabulary vessels; and it did not address incidents in territorial waters.<sup>69</sup> This agreement was complemented by the development of the US/China Memorandum of Understanding (MOU) in December 2014 and the supporting Annex in September 2015. This MOU and Annex addressed rules of behavior for maritime and air encounters.<sup>70</sup> In addition, there is a Military Maritime Consultive Agreement (MMCA)<sup>71</sup> that

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65. McDevitt, "The Contribution of Maritime Exercises to U.S. South China Sea Policy."

66. Mogato, "Exclusive: Philippines, Vietnam to explore joint patrols in South China Sea."

67. Department of Defense, *Military and Security Developments Involving the People's Republic of China 2016*, 96-101, provides a comprehensive summary of military-to-military interaction between the United States and China in 2015 and planned interactions for 2016.

68. Cordesman and Colley, *Chinese Strategy and Military Modernization in 2015*, 521-522 and Kuok, *The U.S. FON Program in the South China Sea*, 15-18.

69. O'Rourke, *Maritime Territorial and Exclusive Economic Zone (EEX) Disputes Involving China*, 17.

70. Supplement to the Memorandum of Understanding On the Rules and Behavior for Safety of Air and Maritime Encounters Between the Department of Defense of the United States of America and the Ministry of National Defense of the People's Republic of China, September 2015; Memorandum of Understanding Between the Department of Defense of the United States of America and the Ministry of National Defense of the People's Republic of China Regarding the Rules of Behavior for Safety of Air and Maritime Encounters, December 2014. As stated by the Office of International Military Cooperation (OIMC) during the Air War College delegation visit on 28 February, 2017, the agreement was a sufficient basis to address coordination between the United States and China, recognizing that there needs to be continued efforts to expand the scope to include a Military Crisis Notification System.

71. Agreement Between the UNITED STATES OF AMERICA and the PEOPLE'S REPUBLIC OF CHINA, 19 January 1998. This reference provides the complete text to the 1998 agreement.

was signed in 1998 and provides a forum for periodic meetings between US and Chinese naval and air representatives to address concerns and develop common understandings in order to avoid unsafe incidents and minimize risk.<sup>72</sup> China has recognized in public articles the need for the United States and China to build a military relationship that “avoids misjudgment, reduces confrontation, and manages crises.”<sup>73</sup> Future success and applicability of these broad mechanisms to manage unplanned encounters at sea, however, may depend on the enforceable nature of these agreements. Specific to the SCS, a binding agreement called the Code of Conduct (CoC)<sup>74</sup> is being developed between ASEAN and China; the status and ongoing challenges with CoC development will be covered in the next section. Of note is that the CoC does not include the United States as a direct party. While the effort to build a binding CoC is important, it is only one of a series of efforts consistent with the Chinese perspective on events in the SCS and their supporting strategy. It is necessary to review the broader Chinese strategy and response to events in the SCS to gain their perspective and understanding of the previously discussed US strategic considerations.

## **China’s Strategy and Reaction to SCS Events**

### **China’s Strategic View**

There are four critical factors shaping Chinese leadership perceptions; these are domestic stability, decelerating economic growth, regional challenges to China’s interests, and

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72. U.S. Pacific Air Forces Public Affairs, “U.S., China Conclude Bilateral Maritime Talks.” From discussions with US Embassy personnel during the Air War College delegation’s Regional Cultural Studies trip to China, China views the MMCA forum as one to address “security” versus the US view that the forum should address “safety.” Therefore, efforts to establish an appropriate framework to resolve issues has not been as productive as they could be.

73. Wu, “Chinese Scholar Wu Shicun Urges Seizing Upon Improvements in the South China Sea Situation.”

74. Simon, *The US Rebalance and Southeast Asia*, 582. The CoC would address “rules of the road” and prevent belligerent actions.

nationalism.<sup>75</sup> China has recognized that there are economic challenges, with accompanying changes, which are required for long-term sustainable growth.<sup>76</sup> The dichotomy that confounds China's leadership is that reforms associated with this "disruptive transition" of the economy could undermine the "steady economic growth, low unemployment, and contained inflation" that has been the current basis of social stability.<sup>77</sup> So China is very sensitive to maintaining this economic growth given its impact on future domestic stability within China, and China's current leadership has been known to use foreign policy as an offset to domestic challenges.<sup>78</sup> There is significant concern that the slowing economy will increase social pressure and exacerbate the nationalistic tendencies within China.<sup>79</sup> Complicating this challenge is that China has also identified the need for significant resources and energy to sustain their economic growth.<sup>80</sup> The SCS, therefore, provides two-fold criticality to China, not only because of its potential natural resources, but it also serves as a visible outlet for demonstrating national resolve related to "historic rights" territorial claims as well as broader national security considerations.

China's interests in the SCS region are fourfold: (1) protect territory and their economic center-of-gravity;<sup>81</sup> (2) ensure resources via sea-lanes-of-communication cannot be interdicted; (3) guarantee exports remain unmolested; and (4) reduce dependence on external oil and natural gas via exploitation of SCS natural resources.<sup>82</sup> While these end-states, particularly the resource

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75. Department of Defense, *Military and Security Developments Involving the People's Republic of China 2016*, 48-49.

76. Joseph, *Politics in China*, 283.

77. Department of Defense, *Military and Security Developments Involving the People's Republic of China 2016*, 49. The primary challenge is the migration from an export and investment-driven economy to one that has a significant increase in domestic consumption.

78. Ross and Bekkevold, *China in the Era of Xi Jinping*, 202.

79. *Ibid.*, 227.

80. Joseph, *Politics in China*, 280. See also Department of Defense, *Military and Security Developments Involving the People's Republic of China 2016*, 46-48 for additional details on specific energy requirements.

81. O'Rourke, *Maritime Territorial and Exclusive Economic Zone (EEX) Disputes Involving China*, 2.

82. McDevitt, *A CNA Occasional Paper; The South China Sea*, 31-32.

exploitation, could be viewed as provocative; they are not necessarily inconsistent with any regional power's concerns for economic stability and assurances on common access.

As characterized from a Chinese perspective, this end state needs to be put into a framework of overall Chinese strategic thinking about the SCS formed by a multi-stage policy evolution process. In the initial phase, China set aside disputes and sought common development. As it became more difficult to maintain regional stability amid rising tensions, emphasis shifted to maintaining sovereign rights. This resulted in a more proactive and assertive SCS policy, as characterized by China's SCS efforts up until 2010.<sup>83</sup> In the next stage, consistent with China's SCS efforts in 2012 through 2015,<sup>84</sup> China achieved the necessary capacity to attain further foreign policy successes, resulting in increased confidence in taking on initiatives and policy options. This framework has culminated in the last stage emphasizing the economic development of "One Belt, One Road,"<sup>85</sup> which shifts focus to regional development. In this stage, the SCS approach is more restrained, but China continues to enhance their physical presence via extensive land reclamation.<sup>86</sup> With this Chinese strategic policy framework, there are some critical observations regarding actual Chinese behavior and intentions that are necessary to review.

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83. Harada, "South China Sea Disputes and Sino-ASEAN relations," 2-3. These included more active involvement with the People's Liberation Army (Navy).

84. Ibid. This period signaled a transition to non-military means including extensive use of law enforcement vessels, as well as renewed efforts to develop artificial islands.

85. See Ross and Bekkevold, *China in the Era of Xi Jinping*, 248-249, for a summary of the "One Belt, One Road" initiative. See also Singh, Yuan, Hart, Harding, Zhang, Chen, and Zhang, *Recalibrating U.S.-China Relations in Southeast Asia*, 15-17.

86. Fangyin, "Understanding China's South China Sea Policy," 874-875.

## The Context of China's Response

If one looks at the history of dispute resolution, China had settled the majority of its territorial conflicts through bilateral agreements,<sup>87</sup> usually including resolution of sovereignty over the disputed land. China has used force in some of these dispute resolutions, but this was restrained and did not involve seizing land it did not own before the dispute.<sup>88</sup> From a Chinese perspective, aggressive behavior through expansion does have its drawbacks. The two main drawbacks would be: (1) an increased doubt about China's intentions, thereby facilitating improvement of US ties with those regional countries; and (2) an increased likelihood that regional countries would coordinate (aka bandwagon) to limit China's power and prevent further conflict.<sup>89</sup> China is very conscious that if regional countries view China as a threat, then they will potentially balance against China,<sup>90</sup> and that the use of force may undermine legitimacy of any sovereign claims.<sup>91</sup> China is concerned that international focus on conflicts in the SCS reflect an underlying strategy to encourage other regional countries, particularly Vietnam, the Philippines, and Japan, to push the envelope and solicit a stronger Chinese reaction; thereby driving those countries to align even closer to the United States.<sup>92</sup>

Notwithstanding the concern of regional bandwagoning, China has been assertive in the SCS in the past few years. From China's perspective, a shift from moderate self-restraint to a

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87. Shambaugh, *The China Reader*, 406. There are voices within China that are starting to recognize that there is a place for multilateral engagement in resolution of issues.

88. Fravel, "International Relations Theory and China's Rise," 507.

89. *Ibid.*, 510.

90. Department of Defense, *Military and Security Developments Involving the People's Republic of China 2016*, 44.

91. Harada, "South China Sea Disputes and Sino-ASEAN relations," 10.

92. Bader, Lieberthal, and McDevitt, *Keeping the South China Sea in Perspective*, 2; and Ross and Bekkevold, *China in the Era of Xi Jinping*, 248. See also Fangyin, "Understanding China's South China Sea Policy," 877, on China's concerns that their self-restraint may also encourage some countries to be more demanding in their relations with China.

more proactive and assertive approach has provided the deterrence necessary in the region to prevent future unintentional provocations and escalation.<sup>93</sup> This was especially true with their assertive response to the Scarborough Shoals standoff in 2012 and the subsequent moderated approach to the Second Thomas Shoals incident in 2013.<sup>94</sup> From China's perspective, it is this deterrence and willingness on China's part to be more proactive, with supporting capability and capacity, which has established the basis for mutual issue resolution among all the concerned regional countries. This is not inconsistent with historical Chinese efforts on dispute resolution, where an increase in Chinese bargaining power led to a de-emphasis on the use of force and the successful resolution of territorial disputes mentioned above.<sup>95</sup> However, this Chinese perspective is not consistently shared by those outside China.

One concern is that recent Chinese efforts could be interpreted to be part of a larger delaying strategy, whereby China slowly consolidates their control over the SCS via non-military and other means. China's preference is for bilateral issue resolution,<sup>96</sup> but this approach could potentially allow a "divide and conquer" strategy to dispute resolution that may not be in the collective interest of all concerned parties. Chinese support for multi-lateral engagement in "dispute resolution and regional-wide trust building" may be no more than diplomatic rhetoric and expediency. In addition, China has been proactive in incorporating their civil maritime and law enforcement agencies in their overall SCS strategy, which minimizes the visibility of any role the People's Liberation Army – Navy may play.<sup>97</sup> Also, while China has worked with

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93. Fangyin, "Understanding China's South China Sea Policy," 878.

94. *Ibid.*, 882.

95. Fravel, "Power Shifts and Escalation Explaining China's Use of Force in Territorial Disputes," 46-47. A state's bargaining power is comprised of two components: the amount of contested land that a state holds, and the state's ability to project military power against an adversary in the disputed area.

96. O'Rourke, *Maritime Territorial and Exclusive Economic Zone (EEX) Disputes Involving China*, 25. This preference was reinforced during discussions with the Shanghai Institute of International Studies (SIIS) as part of the Air War College delegation visit on 09 March, 2017.

97. Fravel, "China's Strategy in the South China Sea," 303, 307.



ASEAN to develop a non-binding Declaration of Conduct (DoC), there has not been substantial progress towards development of a binding CoC to manage disputes in the SCS.<sup>98</sup> Lastly, it is important to remember that a fundamental goal of China's foreign policy is to support the country's great rejuvenation. This has brought renewed prioritization of political and social stability, as well sustained and improving national power, as prerequisites to this rejuvenation.<sup>99</sup> The resulting "nationalism"<sup>100</sup> created from these conditions puts additional pressure on the Chinese leadership vis-à-vis dispute resolution in the SCS. In particular, the Chinese response to ongoing US FoN operations conducted by US Navy warships provides some context to how China views this component of dispute resolution.

As discussed earlier, the United States brought renewed emphasis to FoN operations in the SCS in 2015. As expected, this has resulted in provocative statements by Chinese officials, and continued Chinese misperceptions of US intentions via conduct of the FoN operations. A critical dispute involves one particular element of China's interpretation of UNCLOS, which is that states have the right to regulate foreign military activities within their EEZ.<sup>101</sup> This is contrary to the internationally accepted understanding of permitted activities in the EEZ, and US FoN operations are explicitly designed to respond to this excessive claim.<sup>102</sup> China claims that US FoN operations are "a threat or use of force,"<sup>103</sup> and they have consistently viewed those operations as defacto legitimization of the ability to conduct close surveillance of China's coasts,

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98. McDevitt, *A CNA Occasional Paper; The South China Sea*, 84-85.

99. Fangyin, "Understanding China's South China Sea Policy," 872-873.

100. Department of Defense, *Military and Security Developments Involving the People's Republic of China* 2016, 48.

101. McDevitt, *A CNA Occasional Paper; The South China Sea*, 11.

102. *Ibid.*, 13.

103. *Ibid.*, 14.



islands, and reefs.<sup>104</sup> As a result, continued FoN operations became China's justification for construction of "defensive facilities" to safeguard national sovereignty.<sup>105</sup> Chinese reaction to the October 2016 FoN operation by the USS Decatur branded the intrusion as an "illegal and provocative" move, and urged the United States to stop "irresponsible" and "provocative" actions which go against China's maritime law and sovereignty.<sup>106</sup> Chinese reactions to previous FoN operations have been consistent with this response, and have also included interceptions with military aircraft.<sup>107</sup> These responses reported by Chinese media can be viewed as standard rhetoric and necessary to demonstrate Chinese resolve to these indirect challenges to its sovereignty;<sup>108</sup> nevertheless, while the public media response has been fairly provocative, there does not appear to be an increase in Chinese actions or a significant increase in the provocative nature of the public responses that would indicate a change in China's position on US-led FoN operations.<sup>109</sup> However, it is important for the United States to understand the messaging that accompanies FoN operations.<sup>110</sup> Unilateral US FoN operations continue to be interpreted in the larger Chinese narrative about potential efforts to "contain" China,<sup>111</sup> As a counter, a multi-lateral FoN program has been proposed by the United States; and it would have to balance the message of a broader, consistent coalition demonstrating unity against excessive Chinese maritime claims against the risk that Chinese fears of "containment" could be exacerbated with

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104. Ibid., 3. Strong concerns about US surveillance of China was reinforced via China's Ministry of Foreign Affairs and the Office of International Military Cooperation (OIMC) during the Air War College delegation visit on 27 February, 2017, and 28 February, 2017, respectively.

105. Ku, Fravel, and Cook, "Freedom of Navigation Operations in the South China Sea Aren't Enough."

106. China Daily, "People's Daily says China will never allow US to run amok in South China Sea."

107. Martina, Toronde, and Blanchard, "China scrambles fighters as U.S. sails warship near Chinese-claimed reef."

108. Ku, Fravel, and Cook, "Freedom of Navigation Operations in the South China Sea Aren't Enough."

109. "China: Beijing's Public Reaction to FONOP Strongest Since October 2015." The response to the Oct 2015 FoN operations has been the strongest one across all FoN operations.

110. Hooper, "Parting the South China Sea; How to Uphold the Rule of Law." The United States needs to ensure the focus of FoN operations is a legal vice a military response.

111. Ibid.

participation by these other non-US allies and partners, especially other major countries like Japan or Australia.<sup>112</sup>

### **The role of ASEAN in SCS Dispute Resolution**

From the Chinese perspective, there are other ways to address dispute resolution in the SCS, and that is via a concerted engagement with ASEAN. China views ASEAN participation as consistent with its overall desire to address SCS issues from a regional perspective.<sup>113</sup> Chinese-ASEAN interaction would highlight the common interests those regional countries share, both from a security and an economic perspective.<sup>114</sup> One of the challenges with ASEAN processes is that it is “consensus” based; countries in the SCS region have to balance consensus on SCS interests with their corresponding desired positive relationship with China.<sup>115</sup> In general, ASEAN countries appear to be cautious and self-restrained as they balance their own interests in the midst of the larger US/China rivalry. Unfortunately this caution has made it very difficult for ASEAN to achieve pragmatic approaches to issue resolution given the lack of cohesion required to effectively resolve these very difficult claimant and resource management issues.<sup>116</sup> What complicates this lack of cohesion are the varying perceptions of the threat China poses in the SCS, as well as integrated economic ties with China by a number of ASEAN countries.<sup>117</sup> ASEAN has generally welcomed the US “pivot” and rebalance to the Asia-Pacific region as a sign of commitment, but there are concerns that this rebalance may unintentionally exacerbate a

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112. See ADM Harris, February 2016 Statement to the SASC, 11, for context on coordinated US/Japanese maritime transits; and see “Singapore: Australia, Indonesia consider joint South China Sea naval patrols.”

113. Kim, “Possible Future of the Contest in the South China Sea,” 38. China has been pushing for stronger regional interaction via highlighting common regional interests. See also article “Chinese Scholar Wu Sichun Urges Seizing Upon Improvements in the South China Sea Situation.”

114. *Ibid.*, 39.

115. Simon, *The US Rebalance and Southeast Asia*, 582-583.

116. Kim, “Possible Future of the Contest in the South China Sea,” 52.

117. *Ibid.*, 41.

great power rivalry and lead to instability or conflict in the region.<sup>118</sup> There is also a perception that the US rebalance is heavy on the defense aspects, and ASEAN countries are worried about US long-term commitments for economic or other non-defense regional needs.<sup>119</sup> With much discussion on US rebalancing writ large in the global environment, there are also concerns within ASEAN about US staying power in the region.<sup>120</sup> ASEAN countries are not naïve either about ongoing issues,<sup>121</sup> as they view China's overall engagement with Southeast Asia as a positive influence given the significant economic benefits, while concurrently recognizing that recent land reclamation efforts by the Chinese in the SCS are disruptive and are dividing the region by drawing fault lines across the ASEAN countries.<sup>122</sup> Given this context, ASEAN processes to manage any disputes or issues have generally not been strong enough to deter China's recent actions.

With respect to maritime encounters, there is an existing DoC between ASEAN and China that was approved in 2002, but it is non-binding and does not include any enforcement mechanisms.<sup>123</sup> Unfortunately, the DoC has proven to be ineffective at defusing SCS military incidents in the recent past.<sup>124</sup> There is an ongoing effort to develop a binding CoC, which has been endorsed by the United States, but that CoC appears to be taking a significant amount of time to complete. The US perception to these challenges with development of the CoC include continued and purposeful Chinese delays as well as Chinese reluctance to resolutions drafted

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118. Singh, Yuan, Hart, Harding, Zhang, Chen, and Zhang, *Recalibrating U.S.-China Relations in Southeast Asia*, 15.

119. *Ibid.*, 15, 18.

120. *Ibid.*

121. Ross and Bekkevold, *China in the Era of Xi Jinping*, 248. After the April 2015 ASEAN Summit, the chairman's statement indicated that ASEAN countries had serious concerns about China's land reclamation efforts and that such a move "has eroded trust and confidence and may undermine peace, security and stability in the South China Sea."

122. *Ibid.*, 17.

123. Simon, *The US Rebalance and Southeast Asia*, 582.

124. Kim, "Possible Future of the Contest in the South China Sea," 41.

without explicit participation by China.<sup>125</sup> Notwithstanding these challenges, it is not unrealistic for the United States to recognize that ASEAN can and should play a critical role in resolving this regional issue, and that might include more deference to their decision-making process as well as how US intentions are perceived. From China's perspective, they have reached out significantly to ASEAN in the last half of 2016. Meetings in July, August and September reinforced the requirement to fully enforce the DoC, dispel interference so issues can be properly handled,<sup>126</sup> and maintain the commitment to completing the CoC. In China's view, the recent accomplishments in developing the CoC over two years are far ahead of the 10-year timeline it took to finalize the DoC.<sup>127</sup> Nevertheless, China's comments continue to indicate a preference for "directly concerned countries" to resolve SCS issues; thereby providing an implicit criticism of US efforts in the region.<sup>128</sup>

### **Recommendations**

It is within this aggregate Chinese context regarding interpretation of their and US actions that leads to a series of recommendations regarding future US actions and responses to SCS developments. These recommendations provide additional context on how the United States should view issues in the SCS, as well as the underlying motivation for the associated Chinese responses. The recommendations are not intended to criticize nor replace the US strategies discussed earlier, but rather they are designed to ensure appropriate consideration of

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125. Simon, *The US Rebalance and Southeast Asia*, 582.

126. "China seeks to Join ASEAN in handling SCS issue: Premier Li."

127. PRC State Council, "China, ASEAN to work together to safeguard peace of SCS."

128. Ibid. See Xue and Xu, "How the US Misjudged the South China Sea, Part I," and Simon, *The US Rebalance and Southeast Asia*, 582 for context that China sees US rebalancing in the region specifically designed to contain China's SCS aspirations but not those of other claimants.

the framework in which US actions are executed and how they are viewed in the Asia-Pacific region of the world.

1. Continue to promote ASEAN-China efforts to identify regional solutions to the various resource and claim issues identified in the SCS, but broaden the engagement to other economic, energy, climate and cooperation initiatives that provide confidence-building measures between ASEAN, the United States, and China.<sup>129</sup> Continue support of development of the CoC, but acknowledge that any US-directed push for timelines may be perceived as interference and not consistent with ASEAN/China efforts to reconcile and reach agreement on the issues. The United States needs to work to dispel any perception that US engagement with ASEAN is part of a larger “containment” effort against China. Recognize that some solutions may need to be bilateral vs. multilateral, as regional countries balance those agreements against their economic needs and their perceived threat of China.
2. Continue to engage regional countries on maritime security initiatives, as well as joint initiatives including maritime exercises; but ensure it is a “pull” vs. “push” relationship. Increases in maritime security capabilities for a number of regional countries can add to stability in the region, but need to be framed against a broader set of challenges including counterterrorism, anti-piracy, Illegal, Unreported, and Unregulated (IUU) fishing, and other illegal activities at sea.<sup>130</sup> Actively address perceptions that enhancing regional maritime security is a direct play to counter Chinese intentions in the SCS region.
3. Continue support of FoN operations, but view and message the operations via a broader global lens as well as a means to facilitate broader strategic communications. Within the

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129. Singh, Yuan, Hart, Harding, Zhang, Chen, and Zhang, *Recalibrating U.S.-China Relations in Southeast Asia*, 23-32. This report lists a number of confidence-building recommendations that would strengthen coordination between ASEAN, the United States, and China.

130. *Ibid.*, 25.

SCS, continue to use FoN operations as a viable tool vis-à-vis illegitimate or disputed maritime claims, but recognize the impact of public FoN operations announcements and the accompanying announcement “language.” Language that is perceived as provocative vs. SCS claims may detract from the benefit of the FoN operations, and draw unnecessary attention to a standard and lawful international practice. Continue to exercise “self-restraint” in FoN operations and enforce a “non-escalatory” posture, while continuing to strengthen coordination efforts with China on dispute resolution, incidents at sea, and other issues to minimize inadvertent conflict or increased tensions due to misunderstandings between the countries. Continue to broaden outreach with the PLA Navy and Air Force to strengthen common understanding and cooperation in the maritime environment.

4. Continue expanding regional security cooperation agreements recognizing their value in providing necessary maritime capabilities to complement existing maritime security and support infrastructure, as well as providing critical situational awareness in regional maritime and air environments. Where feasible, minimize the “military” context of this support to reduce misperceptions about “containment” strategies or risk emboldening regional countries vis-à-vis SCS issues and claims.
5. Recognize that China’s actions in the SCS are really part of a larger context of foreign and domestic policy within China, and that context can guide corresponding US actions and how they will be perceived. This recommendation should not be interpreted as an abdication of the significant role the United States plays in the Asia-Pacific region, particularly with our allies and partners. Instead, it serves as an acknowledgement that larger issues related to Chinese growth into a regional, and potentially, global power have a different, broader, and more nuanced context that the United States needs to account for in its overall diplomatic,

economic, and military interaction with China. Continued perceptions by China and other regional countries that the US rebalance has a visible, and perceived prioritized, defense component only complicates that context.

6. In all efforts carefully manage the public commentary about China's actions, US FoN operations or other efforts, along with any Chinese response. Inflammatory language specific only to Chinese actions will only reinforce China's perception of "containment" by the United States as well as a biased, "non-neutral" US involvement in the region.

## **Conclusion**

The ongoing issues in the SCS will continue to pose challenges for the United States, particularly in how to maintain a neutral arbitration role vis-à-vis the competing territorial claims, while acknowledging that actions by any country to destabilize the region are not in the best interest of either the region or the United States. US efforts need to continue to operate within recognized international norms, with the overall objective of encouraging China to take responsibility for the effects of its actions in the SCS region if they want to be recognized as a responsible and accountable global stakeholder.<sup>131</sup> It will be important for the United States to be careful and precise with the messaging that goes with ongoing efforts to bolster maritime security cooperative agreements with countries in the SCS region, as well as the messaging that accompanies FoN operations, whether they are unilaterally executed by the United States or executed with or by our allies and partners in the region.

Resolution of issues in the SCS are really a component of the larger framework of US/China strategic relations, and specific response actions need to be assessed against that

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131. Harada, "South China Sea Disputes and Sino-ASEAN relations," 11.



strategic framework. The US grand strategy<sup>132</sup> as it relates to China was a topic too broad to be covered in this paper, but it is extremely relevant to establishing the US context for potential Chinese regional hegemonic activities, and whether demonstrated activities in the SCS fit that narrative or not. It may be that the fundamental US approach needs to change, as a more direct strategic forum for US/China relations may be a prudent approach to resolve strategic issues than the existing and visible FoN and regional security efforts.<sup>133</sup> These current US efforts appear at times to exacerbate tensions without conclusively working towards a comprehensive solution to the challenges and a desired end-state of resolution of those challenges in accordance with international norms or accepted precedence.<sup>134</sup> Otherwise, the risk is that US efforts may lay the foundation for inadvertent escalatory responses that would jeopardize progress on resolution efforts, and most likely call into further question the ability for the United States to remain an “honest broker” within the international system.<sup>135</sup> Escalatory responses could also jeopardize newly initiated cooperation agreements and put unnecessary strain on established alliances and partnerships, which would be potentially disastrous at a time when that cooperation is essential to address broader global issues common to all countries.<sup>136</sup> The United States will not be able to address these issues unilaterally, so it will be in their best interest to maintain the international

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132. Colin Dueck, *Reluctant Crusaders*, 10. Grand strategy is at a level that incorporates not only military capabilities but also diplomatic and economic capabilities towards achieving a state's objectives which may be economic, political, or even ideological. Critical components of any grand strategy include identification and prioritization of national interests, potential threats to those interests, and the resources to achieve and protect those interests.

133. Tuan Pham, “A South China Sea Game Changer.” 61.

134. Pickrill, “Mattis May Be Much Tougher on China Than His Public Comments Suggest.” The newly-appointed Secretary of Defense (Mattis) stated that the frequency of FoN operations will be stepped up under the new administration, and that the United States will adopt a more aggressive stance than that of the previous administration.

135. Shambaugh, *The China Reader*, 380. A significant concern is that China's ability to manage crises is not necessarily mature, and that it could easily be overwhelmed with an accident or incident that leads to military confrontation.

136. These issues include, but are not limited to, to include: cross-boundary transnational and violent extremist organizations, maintenance of open seas and trade, and non-proliferation of weapons of mass destruction.

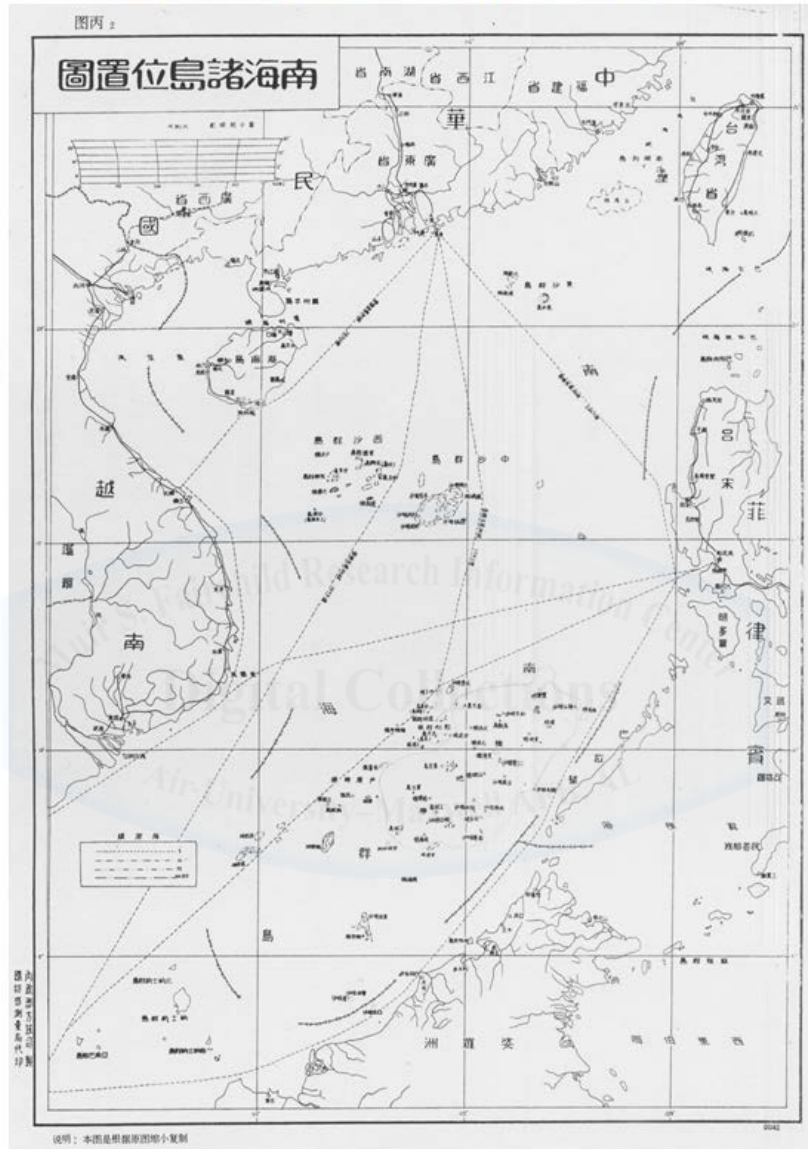


credibility to develop and sustain the forums dedicated to addressing those complex issues. Solution to those challenges will by necessity include China. Nevertheless, the United States should not be blind to overt Chinese actions and intentions, and should expect a reciprocal commitment by China to be a responsible member of the global community. The United States will need to preserve the capability to respond appropriately, military or otherwise, if China chooses via its actions in the SCS and elsewhere not to act responsibly in accordance with international laws. Within this framework of the broader US/China strategic engagement, the context of China's engagement in the SCS is very complex; and it will be critical for the United States to carefully assess Chinese responses as it considers its own actions in the SCS in an effort to defuse tensions and play a credible, leading role in supporting a final resolution of the issues.



## Appendix A

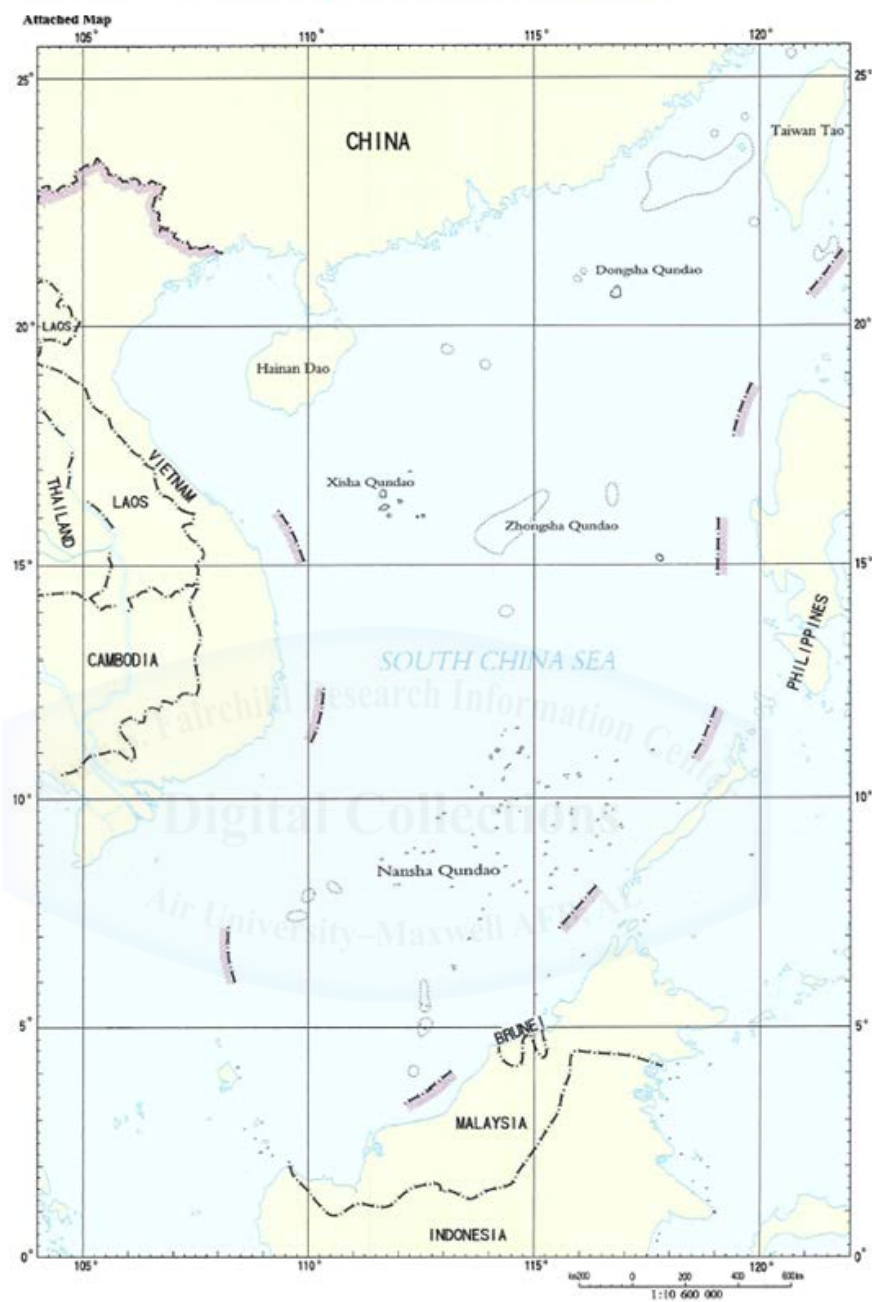
**Map 2: China's (Kuomintang) 11-Dash Line Map of 1947  
entitled "Map of South China Sea Islands"**



**Figure 1: China's Eleven Dashed Line Map of 1947<sup>137</sup>**

137. Department of State, *Limits in the Seas*, No. 143, China: *Maritime Claims in the South China Sea*, 3.

**Map 1: China's Dashed-Line Map from Notes Verbales of 2009**



**Figure 2: China's Nine Dashed Line Map<sup>138</sup>**

138. Ibid., 2.

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